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FOR COURT USE ONLY

Attorneys for Defendant Ethan Berry

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

ETHAN BERRY,

Defendant.

Case No. CR-08-00233 DLJ

STIPULATION AND [] ORDER
REGARDING DATE OF SURRENDER

This Stipulation is entered into by and among Defendant Ethan Berry and Plaintiff United States of America, through their respective attorneys of record.

WHEREAS, on December 11, 2009, a jury found Mr. Berry guilty of Social Security fraud in violation of 42 U.S.C. § 408(a)(5);

WHEREAS, on July 9, 2010, this Court sentenced Mr. Berry to a term of four months of imprisonment, to be followed by three years of supervised release, and imposed a \$100 special assessment and \$53,541 restitution;

WHEREAS, on July 26, 2010, Mr. Berry filed a timely notice of appeal to the United States Court of Appeals for the Ninth Circuit;

1 WHEREAS, by order of this Court, Mr. Berry has remained out of custody and in
2 compliance with his Pretrial conditions pending determination of his appeal;

3 WHEREAS, on June 12, 2012, the Ninth Circuit entered judgment affirming Mr. Berry's
4 conviction;

5 WHEREAS, on November 21, 2012, the Ninth Circuit denied Mr. Berry's petition for en
6 banc consideration;

7 WHEREAS, on November 30, 2012, the Ninth Circuit issued the formal mandate taking
8 into effect its judgment of June 12, 2012;

9 WHEREAS, on December 11, 2012, this Court issued an order that Mr. Berry surrender
10 to the United States Bureau of Prisons ("BOP") or to the United States Marshal Service on or
11 before January 7, 2013;

12 WHEREAS, the Parties have met and conferred regarding Mr. Berry's date of surrender,
13 in which defendant submitted that if Mr. Berry surrenders prior to his designation to a BOP
14 facility, he is likely to be housed at Alameda County Jail rather than in a BOP facility for some or
15 all of his four-month sentence;

16 THEREFORE, THE PARTIES HEREBY STIPULATE AND AGREE, with the Court's
17 permission, that the deadline by which Mr. Berry must surrender to the BOP or to the United
18 States Marshal Service be extended forty-five (45) days from the current date of January 7, 2013,
19 to and including February 21, 2013.
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Respectfully submitted,

Dated: December 21, 2012

MELINDA HAAG
United States Attorney

/s/ Christina McCall
Christina McCall
Assistant United States Attorney

Dated: December 21, 2012

SHEARMAN & STERLING LLP

/s/ Patrick D. Robbins
Patrick D. Robbins
Attorney for Defendant Ethan Berry

ATTESTATION PURSUANT TO GENERAL ORDER 45

I, Patrick D. Robbins, attest that concurrence in the filing of this document has been
obtained from all signatories.

Dated: December 21, 2012

SHEARMAN & STERLING LLP

/s/ Patrick D. Robbins
Patrick D. Robbins
Attorney for Defendant Ethan Berry


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[] ORDER

For the reasons set forth above, and based on counsel's representations, IT IS HEREBY ORDERED that the deadline by which Mr. Berry must surrender to the United States Bureau of Prisons or to the United States Marshal Service is extended forty-five (45) days from the current date of January 7, 2013, to and including **February 21, 2013**.

IT IS SO ORDERED.

Dated: ~~FBI~~ _____, 2015

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Honorable D. Lowell Jensen
United States District Judge